

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Michael Altenhofen Art Unit : 2139
Serial No. : 10/698,108 Examiner : Jenise E. Jackson
Filed : October 31, 2003 Conf. No. : 8924
Title : SECURE USER-SPECIFIC APPLICATION VERSIONS

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

We request that a panel of Examiners review the rejections made by the Examiner because of the deficiencies discussed below.

I. Rejections

Claims 1, 3 to 9, 11, and 13 to 19 were rejected under §102 over U.S. Patent Publication No. 2005/0066324 (Delgado); claim 21 was rejected under §102 over U.S. Patent Publication No. 2003/0152904 (Doty); claims 10 and 20 were rejected under §103 over Delgado and U.S. Patent Publication No. 2005/0014121 (Eck); claims 23 to 26 were rejected under §103 over Doty and Eck; and claims 27 and 28 were rejected under §103 over Doty and Delgado.

II. Question For Review

We respectfully request the panel to review the following issue: whether claims 1 and 11 were properly rejected over Delgado; and whether claim 21 was properly rejected over Doty. We reserve the right to expand the issues or to present new issues when filing an appeal brief.

III . Independent Claims 1 and 11

Independent claim 1 recites

1. A method of providing an application core of a software application with access to version-specific functionality, the method comprising:
 - determining a version of the software application;
 - providing a module link that corresponds to the version; and
 - authenticating the module link by verifying against a code that is unique to a user, the module link being used by the application core to access to the version-specific functionality;wherein the application core comprises software that is common across multiple versions of the application, the version comprises one of the multiple versions, and the version-specific functionality comprises functionality that is specific to the version of the software application.

Independent claim 1 specifies that the module link is used by/usable by the application core to access to the version-specific functionality. The applied art is not understood to disclose or to suggest this feature of the claims.

Fig. 1 (below) shows the Delgado system.

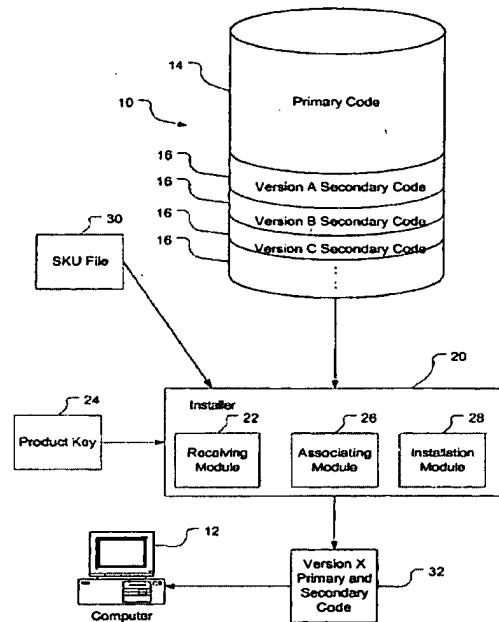


FIG. 1

As shown in Fig. 1, and as described in col. 2 of Delgado, the installer 20 controls installation of what the Office Action appears to characterize as version-specific code. According to Delgado:

[0025] Also shown in FIG. 1 is an installer 20. Software for the installer 20 may be included on the data storage medium 10 as additional computer code, may be previously installed on the computer 12, or may be stored remotely, thereby controlling the installation of the software product via a network connection (not shown). A receiving module 22 is provided in the installer 20 for receiving a product key 24. The product key 24 identifies the version of the software to be installed and may contain validation information that validates the product key 24. The installer 20 includes an associating module 26 that identifies code in the storage medium 10 that corresponds to the version identified by the product key 24. The associating module 26 may perform this through the use of a SKU file 30 that contains information that associates the information provided by the product key 24 with versions of the software product on the storage medium 10.

The primary code, which the action appears to equate to the claim's application core, is stored in the same storage medium as the version code, and is retrieved at the same time as the version code, as explained in the following excerpt from Delgado:

[0026] The installer 20 also includes an installation module 28 that extracts from the storage medium 10 and installs on the computer system 12 the code 32 associated with the version identified by the product key 24 (i.e. the primary code and the secondary code specific to the version identified by the product key 24). The installation module 28 also may enable or disable certain behaviors depending on the version installed as dictated by additional behavior information provided in the SKU file 30. (emphasis added)

By contrast, in the claims, the module link is used/usable by the application core to access to the version-specific functionality. Paragraphs 26 and 27 of the Office Action state:

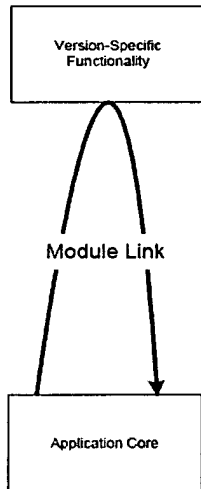
associated with the version identified [0026]. Delgado discloses an application core, because

Delgado discloses that the code is associated with the version identified by the product key(i.e. primary code and the secondary code specific to the version identified by the product key[0026].

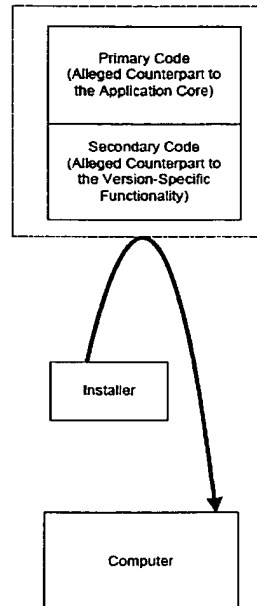
27. The Applicant states that the primary code is stored in the same storage medium as the version code and is retrieved at the same time as the version code. The Applicant has not claimed different storage medium's for the application core, module link, etc... In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies as stated above are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

These statements miss the point. We are not claiming separate storage. Rather, what we are saying is that the claims require that the "module link [be] used by the application core to access the version-specific functionality". In Delgado, the installer retrieves both the primary code (the alleged counterpart to the application core) and the secondary code (the alleged counterpart to the version-specific code). Thus, the alleged counterpart to the module link (the installer) is accessing both the alleged counterpart to the application core and the alleged counterpart to the version-specific functionality. The primary code is not using the installer to access the secondary code, which would be required if the primary code were a proper counterpart to the claimed application core and the installer were a proper counterpart to the claimed module link.

As we understand it, the foregoing difference is illustrated in the following figures:



Claim 1



Delgado

For at least the foregoing reasons, claim 1 is believed to be patentable over Delgado. Claim 11 is a counterpart to claim 1 and is also believed to be patentable over Delgado. Claim 21 is also believed to be patentable over Delgado for at least the reasons described above.

IV . Independent Claim 21

Independent claim 21 recites

21. An electronic learning system, comprising:
a first system to provide course content;
a second system to provide a content player that presents the course content; and
a third system to identify a version of the content player that is to present the course content,
and to provide a module link for use by the content player to obtain modules specific to the
version of the content player that is to present the course content, the modules providing
functionality that is specific to the version of the content player that is to present the course
content;
wherein the content player comprises software that is common across multiple versions of the
content player, the version comprises one of the multiple versions, and the module link is
authenticated by a code that is unique to a user.

Doty was applied against claim 21. The cited paragraphs of Doty are reproduced below.

[0085] In one embodiment, the system 10 includes a number of distinct components that provide a useful and engaging Internet based educational system 10. For example, FIG. 4 illustrates a

Applicant : Michael Altenhofen
Serial No. : 10/698,108
Filed : October 31, 2003
Page : 5 of 5

Attorney's Docket No.: 13909-055001
Client Ref. No.: 2003P00799 US

schematic of an embodiment of four components of a network based educational system 10. The system 10 combines I) content, II) platform, III) delivery and IV) support in providing educational providers, instructors and students with a highly viable Internet based educational system 10. These four components working in close conjunction can be essential to the operation of the system. For example, if the system included content, a platform and support, but no means of delivering the content to learners, then the system 10 would exclude an important functionality.

[0125] In an embodiment of a platform, certain hierarchical criteria can be implemented. Some typical hierarchical definitions include a system that is a unique instruct portal, the system having its own set of properties such as a main page URL, the initial page once logged in can either be created and hosted on our servers or hosted remotely, system contacts for: support, billing and administration. A system can typically have different versions and modules and a system has a unique DS, ID, and set of branding, as well as independent versions of any/all modules. A module is a particular feature that is independent of the system a module can be: "my courses", course guide, new user sign up, admin, schedule, message boards, framework (the actual look and feel "skin" of the system), file upload, related resources, help system and the like.

While these paragraphs disclose the concepts of a "module" and system versions, it is not clear from the reference itself, or from the text in the Office Action, what elements of Doty are equated to the claims' module link. It is assumed that the action is equating some element of Doty, Fig. 4 to the claims' module link (perhaps, "Delivery"?). In any case, there is no disclosure or suggestion that some element in Doty allows the application core itself to access to version-specific functionality. In this regard, Doty has again been reviewed, and is not understood to disclose or to suggest an equivalent to the module link claimed in claim 21, i.e., "a module link for use by the content player to obtain modules specific to the version of the content player that is to present the course content", and that is "authenticated by a code that is unique to a user". Furthermore, the Examiner failed to address our prior arguments, and has given no further guidance vis-à-vis Doty. Claim 21 is thus believed to be patentable over Doty, as are claims 1 and 11.

Please apply any other required fees to deposit account 06-1050, referencing the attorney docket number 13909-055001.

Respectfully submitted,

March 11, 2009
Date: _____

/Paul Pysher/

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Paul A. Pysher
Reg. No. 40,780